

**CALIFORNIA COASTAL COMMISSION**

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**W8b**

Appeal Filed: 6/29/2004  
Permit Approved: 11/18/2004  
Staff: CP-LB  
Staff Report: 3/2/2005  
Hearing Date: March 16, 2005  
Commission Action:



**STAFF REPORT: REVISED FINDINGS**  
**DE NOVO COASTAL DEVELOPMENT PERMIT**

**APPEAL NUMBER:** A-5-RDB-04-261

**APPLICANTS:** Michael & Kimberly Doyle      **AGENT:** Nancy A. Lucast

**APPELLANTS:** Robert & Linda Moffat, Jill & Tony Pietrini, Kevin Farr, and Shannon Gyuricza

**PROJECT LOCATION:** 801 Esplanade, City of Redondo Beach, Los Angeles County.

**PROJECT DESCRIPTION:** Add 23-foot high, 835 square foot second story addition to an existing 13-foot high (above street), 1,673 square foot single-family residence, and remove ficus tree and private development from the adjacent public access easement.

Lot Area	3,000 square feet
Building Coverage	2,000 square feet
Pavement Coverage	500 square feet
Landscape Coverage	500 square feet
Parking Spaces	2
Zoning	R-1
Plan Designation	Single Family Residential
Building Height	23 feet above street (approved add'n)

**COMMISSIONERS ON PREVAILING SIDE:** Burke, Kram, Kruer, Neely, Orr, Peters, Potter, Reilly, Wan and Chair Caldwell.

**SUMMARY OF STAFF RECOMMENDATION**

The Commission has jurisdiction over the proposed project as the result of an appeal of the City of Redondo Beach approval of Local Coastal Development Permit No. 04-01. On August 12, 2004, the Commission found that a **substantial issue** existed in regards to the proposed project's effect on the public view from the Knob Hill area. On November 18, 2004, after public hearing, the Commission **approved with conditions** the de novo coastal development permit, finding that the proposed development, as conditioned, conforms with the certified Redondo Beach LCP and the public access and recreation policies of the Coastal Act.

Staff is recommending that the Commission, after public hearing, adopt the following revised findings in support of the Commission's November 18, 2004 approval with conditions of de novo Coastal Development Permit A-5-RDB-04-261. A vote by the majority of the Commissioners on the prevailing side is necessary to adopt the revised findings. **See Page Two for the motion and resolution to adopt the revised findings.**

**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Redondo Beach Certified Local Coastal Program (LCP), 9/11/03.
2. City of Redondo Beach Local Coastal Development Permit No. 04-01.
3. Coastal Development Permit 5-03-008 (807 Esplanade).
4. Coastal Development Permit 5-01-251-W (814 Esplanade).
5. Coastal Development Permit 5-03-016-W (900 Esplanade).
6. Returned Coastal Development Permit Application 5-03-527 (Doyle, 801 Esplanade).

**STAFF NOTE:**

On August 12, 2004, after a public hearing, the Commission found that a substantial issue existed in regards to the proposed project's effect on the public views of the coastline. After it finds substantial issue on appeal, the Commission is required to hear the matter *de novo*. According to Section 30604 of the Coastal Act, because this project is located between the first public road and the sea, the standard of review in considering the project is the access and recreation policies of the Coastal Act and the policies of the certified City of Redondo Beach Local Coastal Program (LCP).

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution to **adopt the revised findings** in support of the Commission's November 18, 2004 action to approve the de novo coastal development permit application with special conditions. Staff recommends a **YES** vote on the following motion:

**MOTION:** *"I move that the Commission adopt the following revised findings in support of the Commission's action on November 18, 2004 approving Coastal Development Permit A-5-RDB-04-261 with conditions."*

Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the November 18, 2004 hearing, with at least three of the prevailing members voting.

Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The ten Commissioners on the prevailing side are:

**Burke, Kram, Kruer, Neely, Orr, Peters, Potter, Reilly, Wan and Chair Caldwell.**

**I. Resolution to Adopt Revised Findings**

The Commission hereby adopts the findings set forth below for the approval of Coastal Development Permit A-5-RDB-04-261 on the ground that the findings support the Commission's decision made on November 18, 2004 and accurately reflect the reasons for it.

## II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## III. Special Conditions

*(Staff Note: When the Commission approved the de novo permit on November 18, 2004 it deleted recommended Special Condition One).*

### 1. Revised Plans

~~**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicants shall submit revised project plans for the review and approval of the Executive Director. The revised plans shall comply with the following requirements:~~

- ~~(a) Second Floor Building Setback. No portion of the structure within fifteen feet of the northern property line shall exceed thirteen feet in height (as measured above street level). The existing chimney may remain in its current location (only if it conforms to building and fire code requirements), but it shall not be extended any higher than its current height in its current location.~~
- ~~(b) Building Height. The roof of the structure (as revised) shall not be higher than the currently proposed addition (23 22.5 feet as measured above street level).~~

~~The permittees shall undertake and maintain the development in conformance with the final plans approved by the Executive Director. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.~~

2. Geologic Safety

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the review and approval of the Executive Director, a geotechnical report for the approved development which addresses the construction on the bluff face. The report shall be prepared and certified by an appropriate licensed professional (i.e., civil or other appropriate engineer or architect). All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the geotechnical report.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the geotechnical report approved by the California Coastal Commission for the project site.
- C. The permittees shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Parking

At least two on-site parking spaces shall be provided and maintained in the garage of the single-family residence. Vehicular access to the on-site parking shall be taken only from the street (Esplanade).

4. Encroachments

**PRIOR TO OCCUPANCY OF THE APPROVED ADDITION**, the permittees shall remove all private development (i.e. fences, gas meter, etc.) from the public access easement that abuts the north side of their property. Private use or development of the beach, public access easement, or any public right-of-way is not permitted. There shall be no encroachment of private development onto or over any portion of the public beach, easements, or the rights-of-way abutting the applicants' property. Prohibited encroachments include, but are not limited to: landscaping, structures, fences, tables, chairs and signs.

5. Construction Staging Plan

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit for the review and approval of the Executive Director, a Construction Staging Plan that identifies the project staging area(s) to be used during construction of the approved development. The construction staging plan shall include a site plan that depicts the limits of the construction site and staging area(s), construction corridors, and the location of fencing and temporary job trailers. No portion of the beach shall be used

for construction staging activities, and the adjacent coastal accessway shall remain open and unobstructed at all times. The permittees shall undertake the development in conformance with the approved Construction Staging Plan. Any proposed changes to the approved Construction Staging Plan shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Construction Responsibilities and Debris Removal

- A. No construction materials, equipment, debris, or waste will be placed or stored where it may be subject to wave, wind, or rain erosion and dispersion.
- B. Any and all demolition/construction material shall be removed from the site within ten days of completion of demolition/construction and disposed of at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.
- C. Erosion control/sedimentation Best Management Practices (BMPs) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to: placement of sand bags around drainage inlets to prevent runoff/sediment transport into the sea.

7. Future Improvements

This permit is only for the development described in Coastal Development Permit A5-RDB-04-261 as conditioned. Any future improvements to the single-family residence, including but not limited to repair and maintenance, shall require an amendment to Coastal Development Permit A5-RDB-04-261 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

8. No Future Bluff or Shoreline Protection Device

- A. By acceptance of this coastal development permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit A5-RDB-04-261 in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this coastal development permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this coastal development permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner shall

remove the development authorized by this coastal development permit if any government agency has ordered that the structure is not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

9. Assumption of Risk, Waiver of Liability and Indemnity Agreement

By acceptance of this coastal development permit, the applicants, on behalf of themselves and all successors and assigns, and any other holder of the possessory interest in the development authorized by this permit, acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding and erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

10. Local Government Approval

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act. In the event of conflict between the terms and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of this Coastal Development Permit A5-RDB-04-261 shall prevail.

11. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application, subject to any special conditions. Any deviation from the approved plans must be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations.

12. Landscape, Yard Area and Fence Plan *(Staff Note: At the Commission's request, staff added this condition to its recommendation prior to the Commission's approval of the de novo permit on November 18, 2004).*

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit a landscaping, yard area and fence plan for the review and approval of the Executive Director. The plan shall conform with the following requirements:**

- a) All landscaping between the building and the street shall be maintained at a height lower than the roof to preserve views from the street toward the shoreline.
- b) All landscaping within the north and south side yard areas shall be maintained at a height of three feet or lower to preserve views from the street toward the shoreline.
- c) All landscaping shall be either drought-tolerant and native or non-invasive plant species.
- d) No permanent irrigation shall be permitted on the site.
- e) Fences shall permit public views and gates in the side yards that face the street shall have at least 80 percent of their surface area open to light.

The permittees shall provide a written commitment to maintain all plants on the site in good growing condition, and whenever necessary, replace damaged plants with new plant materials in compliance with the requirements of this condition. The permittees shall undertake and maintain the development in conformance with the final landscape, yard area and fence plan approved by the Executive Director. Any proposed changes to the approved plans shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

12. Deed Restriction

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**IV. Revised Findings and Declarations**

**Staff Note:** These revised findings include all of the staff's recommended findings that were set forth in the October 28, 2004 staff report for the Commission's November 18, 2004 hearing for the de novo coastal development permit. The portions of those findings that are being deleted are crossed-out in the following *revised findings: ~~deleted findings~~*. The supplemental findings being added in support of the Commission's November 18, 2004 action are identified with underlined text.

The Commission hereby finds and declares:

**A. Project Description**

The applicants propose to add a 23-foot high, 835 square foot second floor onto an existing thirteen-foot high, 1,673 square foot single-family residence on a 3,000 square foot lot situated on the upper part of the coastal bluff that overlooks the public beach (Exhibit #4). The applicants also propose to remove private development (i.e. fences, gas meter, etc.) and a ficus tree from the public access easement that abuts the north side of the project site (Exhibit #6). The existing two-level (one-story with basement) house is on the seaward side of the improved public street (Esplanade) that currently provides vehicular access to the site (Exhibit #2). The existing two-car garage would be maintained within the ground floor of the house.

Esplanade, the first public street inland of the sea, runs along the top of the coastal bluff parallel to Redondo State Beach (Exhibit #1). The Esplanade right-of-way includes improved sidewalks for pedestrians and two-to-three automobile lanes. Esplanade is lined on both sides with multiple-unit and single-family residences, except south of Avenue A where the west (seaward) side of the street is devoid of structures (Exhibit #2). Expansive unobstructed public views of the shoreline are available from the Esplanade, south of Avenue A to the southern boundary of the City.

The project site, situated between the public beach and Esplanade, is part of a row of one- and two-story single-family homes that line the top of the bluff on the western edge of the densely developed residential neighborhood. Multi-unit residential buildings occupy most of the properties located on top of the bluff north of the site and immediately inland of the site. The height limit for the site, as set forth by the certified LCP, is thirty feet above existing grade (See Zoning Code Section 10-5.402 "Building Height"). The proposed residential addition, which would extend 23 feet above the elevation of the fronting sidewalk (Esplanade), would obstruct part of the public's view of the sea from Knob Hill Avenue, but would not obstruct any public view from Esplanade or the any view from the public access stairway that abuts the northern edge of the project site (Exhibit #2).

**B. Public Views – Visual Impacts**

The project will have an effect on the public's view of the sea. As previously stated, the proposed residential addition, which extends 23 feet above the elevation of the fronting sidewalk (Esplanade), would obstruct part of the public's view of the sea from Knob Hill Avenue, the public street that intersects with Esplanade in front (east) of the project site (Exhibit #2). As one approaches the western end of Knob Hill Avenue from the east, there is a public view above the roof of the existing one-story house that consists of sky and part of the sea. The appellants are objecting to the proposed second story because it would block more of this public view than is currently blocked by the existing single-story house. The public view



of the shoreline from the public stairway that abuts the northern side of the project site would not be affected by the proposed project (Exhibit #2). The applicants have revised their project to restore part of the view from Knob Hill Avenue by removing a ficus tree that is presently growing in the public accessway and extending its canopy over their house. The City has agreed to the tree removal (Exhibit #6).

### **LCP Policies**

The proposed development does not conflict with the specific view protection provisions in the City of Redondo Beach certified LCP. The implementing ordinances (LIP) of the LCP, however, invoke the Chapter 3 policies of the Coastal Act, including Section 30251, which protects visual resources and public views of the ocean.

Section 10-5.2218(a) of the implementing ordinances (LIP) portion of the certified LCP states:

*“Approval, conditional approval, or denial of any Coastal Development Permit by the City of Redondo Beach shall be based upon compliance of the proposal with the provisions of the certified Redondo Beach Local Coastal Program and consistency with the policies of the Coastal Act.”*

The appellants assert also that Section 30251 of the Coastal Act is adopted by reference as part of the certified Redondo Beach LCP because the certified LCP is intended to be consistent with, and be carried out in a manner fully in conformity with, the Coastal Act.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The appellants also assert that the following provisions of the certified LCP identify and protect the public views of the shoreline in the Knob Hill area, where the project site is located:

#### ***Pedestrian Access (LCP pp. 60-61)***

*Pedestrian access to the shoreline, in the form of improved walkways and ramps both vertical and lateral, is provided throughout the Redondo Beach coastal zone....*

*An important part of the pedestrian system is the blufftop walkway. This walkway parallels the western perimeter of Esplanade Avenue on a coastal plain, fifty feet above the shoreline. The walkway extends north from the southern boundary of the coastal zone at Torrance City boundary to Knob Hill on the north.*

*An unobstructed blufftop view of the ocean is provided to both pedestrian and automobile travelers along Esplanade. At Knob Hill, steps lead to a walkway midway between the shoreline and the blufftop walkway.*

**Coastal Recreation (LCP pp. 78-79)**

*The entire Redondo Beach shoreline is under public ownership. As a result, access to recreational opportunities is very good. The City of Redondo Beach offers a wide variety of coastal recreational opportunities including approximately 1.7 miles of public beach area, a blufftop walkway along the Esplanade to Knob Hill where pedestrian views of the beach are unhampered by residential development.*

**Beaches (LCP pp. 80-81)**

*...More than half of Redondo State Beach is open to direct public view from Esplanade, which varies in elevation along its length and offers fine vantage points for viewing the beach and ocean. A major public access walkway extends south from the Pier complex to Knob Hill approximately half the distance of the beach.*

**LCP Policy Analysis**

The above-stated descriptive text from the certified LCP describes the project area, the blufftop walkway and the “*unobstructed blufftop view of the ocean*” along Esplanade, but the more specific policies of the LCP do not refer to protection of public views over the existing residential development.

While the certified LCP, which allows a thirty-foot high house on the site, does not identify any protected view corridor over the project site, the LCP also sets forth a statement of purpose that includes “maximize public access and public views of the coastline,” and includes a requirement that any development be found consistent with the Coastal Act ([Municipal Code Section 10-5.102(b)]). In its substantial issue hearing on this matter, the Commission considered the argument that the absence of specific references to this area in the LCP’s list of views to be protected meant that the LCP policies did not protect views over this parcel from Knob Hill Avenue. Instead, the Commission indicated that it wished to consider ways to protect the public view over the applicants’ house.

The Commission notes that the public accessway that abuts the northern side of the project site is specifically identified and protected in the *Pedestrian Access* section of the certified LCP (pp.61 & LUP Table IX, p.62). The City record states that the twenty-foot wide public accessway was part of the lot at 801 Esplanade (project site) until a former property owner granted it to the City in the 1950s (prior to the writing of the LCP). In fact, the City is allowing the applicants to enhance the public accessway next to the project site by removing the large ficus tree that currently interferes with public views from Knob Hill Avenue (Exhibit #6, p.8). The applicants would also remove some private development (i.e. fences, gas meter, etc.) from the public access easement.

The Commission notes that Knob Hill Avenue is one of the few public streets that leads down from a high elevation at a right angle to the coastline, which also terminates in an open corridor affording a public view. Because it terminates in a public accessway, there is already a view

down this street that is accessible to the public. Because the houses at and near the street end remain at one story, this view is enhanced by the blue water that is sometimes visible over the roofs.

The applicants argued successfully at the City that the LCP specifically allows them to build to thirty feet above the existing grade, and that the LCP does not identify their property for view protection. Instead, they state, the LCP protects the public's view from the parts of the Esplanade that abut public property. The applicants further argue that they have a right to expand their property and should not be required to change the design of their proposed house addition. Moreover, they argue that if the ficus tree is removed as they have proposed, the public view over the twenty-foot wide public accessway would be enhanced. The appellants argue that because of the requirement of consistency with the Coastal Act, no development should occur that interrupts a public view and that is not compatible with the established character of the community.

~~The Commission finds that the public's view can be adequately preserved by reducing the width of the proposed second floor addition and by requiring the applicants to carry out their proposal to remove the present obstructions in the public accessway easement. The applicants point out that their home has an existing fireplace and chimney on the north side of the house. Due to fire protection codes, the chimney must extend higher than the roof of the house. The alternatives are to relocate the fireplace or to allow the applicant to extend the chimney in its existing location. The Commission finds that an extended chimney in the view corridor will be highly visible. As conditioned to reduce the width of the proposed second floor addition, the applicants would be permitted an appreciable addition and a view of the sea from Knob Hill Avenue over the applicants' property will remain. As conditioned, the development will be sited and designed to protect public views to and along the ocean and scenic coastal areas, be visually compatible with the character of surrounding area, and will conform to the view protection provisions of the certified LCP and Section 30251 of the Coastal Act.~~

The Commission recognizes that the proposed second story addition will extend the structure ten feet higher, thus blocking the public's view of the sea that currently exists over the roof of the one-story house. In considering the scenic and visual qualities that would be affected by the proposed project, the Commission is guided by the policies set forth by the certified LCP.

The Commission considered the applicants' proposal and three alternatives:<sup>1</sup>

1. Denial of a second floor addition, but approval of a lower level addition on the bluff face.
2. Approval of a smaller second floor addition with a reduced width.
3. Denial of the application.

### **Alternative One: Lower level addition on the bluff face**

This alternative would require a dramatic redesign of the proposed project. The applicants have rejected this alternative and continue to request the Commission's approval of their proposed second floor addition (Exhibit #5). The applicants assert that the main level of the existing house also cannot be extended farther seaward because of a deed restriction on the

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<sup>1</sup> See Section C for additional discussion of the alternatives considered.

property (and adjacent properties) that limits the buildings' seaward extension (that portion over street level) to sixty feet from the street. The main level of the house currently extends the full sixty feet allowed by the deed restriction. Some of the Commissioners doubted whether the deed restriction would prevent an addition to the lower level of the house and this alternative may be viable.

The Commission, however, notes that an addition to the seaward portion of the house, which is on the bluff face, would involve grading and alteration of the bluff face, which may conflict with the Coastal Act policies regarding landform alteration, scenic resources and safety (Coastal Act Sections 30251 and 30253). It is not possible to identify and mitigate all of the impacts of this alternative without a detailed engineering and grading plan. Therefore, the Commission cannot find that this alternative would minimize the project's impact on public resources. In the end, the Commission found that this alternative is not necessary because the applicant's proposal, as conditioned, is consistent with the certified LCP.

### **Alternative Two: Approval of a smaller second floor addition with a reduced width**

This alternative would also require a dramatic redesign of the proposed project. Since the existing house, on the thirty-foot wide lot, is only 24 feet wide, a reduction in the width of the proposed second floor would be potentially infeasible and aesthetically unpleasing, and would not provide any meaningful public benefit. This alternative would still result in the partial obstruction of the existing view that exists over the one-story house, so it would not resolve the question of whether the view over the house should be preserved. It is potentially infeasible because it would be difficult for the applicants to design a usable second floor that is about twelve feet wide while also providing for the necessary stairway between the floors. Approval of the alternative allowing only a half of a second floor addition would not be worth the challenge of design and construction to the applicants.

The applicants also point out that their home has an existing fireplace and chimney on the north side of the house where the lot abuts the public accessway. Due to fire protection codes, the chimney must extend higher than the roof of the two-story house. The alternatives for satisfying the requirement with a partial second story would be to eliminate the fireplace altogether, relocate it, or allow the applicant to extend the chimney in its existing location. The Commission finds that a chimney extended next to a partial addition would be highly visible, and therefore would obstruct any view that may be protected over the existing one-story house. Therefore, if the permit is conditioned to reduce the width of the proposed second floor addition to maintain part of the view over the north side of the existing roofline, the applicants would be required to redesign part of the existing structure in order to move the existing chimney (unless it was allowed to extend higher into the existing view over the house), and they would not be permitted an appreciable addition. The Commission recognizes that a reduced width of the proposed second floor is not a feasible or sensible solution. Therefore, the Commission has narrowed its choice to denial or approval of the applicants' proposed project.

### **Alternative Three: Denial of the Application**

The Commission must consider whether the certified LCP protects the view over the house, thus overriding the LCP zoning provision that allows a house up to thirty feet high on the

project site. The certified LCP does not identify any view corridor over the project site. The LCP's reference to Section 30251 of the Coastal Act is the only LCP provision that protects the public's view of the ocean in this area. Section 30251 of the Coastal Act requires that:

"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas..."

The Commission, in reviewing this application, considered carefully the scenic and visual qualities that would be affected by the proposed project. The Commission determined that that in identifying resources and making policy choices about protected resources, it must be guided by the policies set forth by the certified LCP. This area was not overlooked when the LCP was in the process of being certified in 2000-2003 because in 2001 the height limit for the project site and neighboring homes was reduced from 39 feet to thirty feet. The Commission cannot change the LCP height limit for the zone through the appeal process, although it could impose a limit on this particular project site. If the City or the concerned parties believe there should be a protected view corridor over this area, the proper forum for imposing protection is the LCP amendment process. Therefore, the denial alternative is rejected and the applicants' proposed project is approved with special conditions to enhance and protect the public's view of the sea over the adjacent public accessway.

### **Approval with Conditions**

Therefore, the applicants' proposed project is approved as conditioned for the following reasons:

1. The locally approved development conforms with the City of Redondo Beach certified LCP because the LCP allows two-story buildings and does not protect the public's view over the existing residential development along Esplanade.
2. The affected view of the sea over the rooftop of the existing residential development is already partially obstructed by existing residential development, is not identified as a protected view corridor in the certified LCP, and therefore is not a significant public view that must be protected like the shoreline views from the Esplanade four lots south of the project. The view of the shoreline from the Esplanade, where it is unobstructed by existing development four lots south of the project, is one of the best views of any coastal city. From the unobstructed Esplanade, one can see miles of shoreline and, of course, the open ocean. The public view affected by the proposed project is a limited view of a small part of the sea's horizon over an existing roof, and it can only be seen from Knob Hill Avenue and its sidewalks. Therefore, the public view that would be obstructed by the proposed project does not rise to the level of significance that would warrant the imposition of a special building limit on the applicants' thirty-foot wide lot.
3. The twenty-foot wide public accessway that abuts the northern side of the project site provides a view corridor through the existing line of residential development and provides the public with a protected view of the sea. The location of the proposed second floor addition on top of the existing development, along with the removal of the ficus tree that partially blocks the public's view through the

accessway, will protect the public's view of the sea in this area as required by Section 30251 of the Coastal Act and the LCP.

4. No provision of the certified LCP or the Coastal Act protects views from private residences.
5. The locally approved development conforms with the public access policies of the Coastal Act because the proposed project would not adversely affect existing coastal access, and adequate public access to the shoreline is provided on the public stairway that abuts the northern side of the project site.

In order to protect the public's view to the ocean, the permit is conditioned to require the permitted development to be sited and designed to protect the views over the approved addition and over the public accessway that abuts the north side of the site. Special Condition Twelve limits the height of trees that could block the public's view over the roof of the approved addition. It also regulates the landscaping and fencing in the side yards in order to maintain and enhance the public views to the sea that exist along on the sides of the house, the north side in particular where the applicants' side yard abuts the public accessway. As conditioned, the development will not have a significant adverse effect on public views to and along the ocean and scenic coastal areas, and the proposed development would be visually compatible with the character of surrounding area, and will conform to the view protection provisions of the certified LCP and Section 30251 of the Coastal Act.

### **C. Alternatives**

The appellants indicate that even an addition limited to half the width of the house will irretrievably impact the public view and assert that the Commission should impose a redesign of the addition that "builds below" the present structure. Opponents have suggested the following alternatives to the applicants' proposed project and the staff's recommendation for the approval of a second floor with a reduced width.

1. Add to the existing house without increasing the building's height.

The existing house currently has a basement and a main floor (Exhibit #8, p.2). The Commission notes that part of the applicants' proposed project involves refinishing the existing basement. The opponents argue that a house addition could be located on top of a new basement level situated lower on the bluff face (Exhibit #8, p.1). In other words, a new two level addition could be built on the seaward half of the site without altering the one-story portion of the house that faces Esplanade. This, they say, would accommodate the applicants' desire for a larger home without affecting the public view over the house.

The applicants have rejected this alternative and continue to request the Commission's approval of their proposed second floor addition (Exhibit #5). They point out that any development on the seaward side of the property would need to conform to the rear setback requirement of the LCP, which is a minimum of 15 feet or 20% of the depth of the one hundred foot deep lot (Zoning Code Section 10-503). In fact, the currently proposed project involves the removal of the most seaward portion of the basement. As proposed, the remodeled house would conform with the rear setback requirement with the pullback of the basement. Adding another level to the seaward portion of the house, which is on the bluff face, would also involve

additional grading and alteration of the bluff face. The applicants also assert that the main level of the existing house also cannot be extended further seaward because of a deed restriction on the property (and adjacent properties) that limits the buildings' seaward extension (that portion over street level) to sixty feet from the street. The main level of the house currently extends the full sixty feet allowed by the deed restriction.

The opponents argue that their preferred alternative would conform to the rear setback requirement of the LCP and the deed restriction that limits the buildings' seaward extension (that portion over street level) to sixty feet from the street. They also point out that the applicants' proposed project does not seem to conform to the deed restriction that limits the buildings' seaward extension (that portion over street level) to sixty feet from the street, as it appears to extend at least six inches further seaward than allowed. The deed restriction, in any case, is not something the Commission would enforce. Some Commissioners were unconvinced that the deed restriction would prevent a viable addition to the lower level of the house.

The opponents' preferred alternative may be feasible, and it would eliminate any effect the applicants' proposed project would have on the public view from Knob Hill Avenue, but it could adversely affect the public's view from the beach because it involves more building mass on the bluff face than currently exists. The opponents' preferred alternative would involve excavating the bluff in order to create another level below the level of the existing basement, which raises the issue of landform (bluff) alteration (see Coastal Act Section 30251). The LCP, in order to protect from the hazards of building on coastal bluffs and to protect natural landforms, contains specific language that prohibits decks, patios, pools and spas from projecting onto the bluff face (Section 10-5-1522). The footprint of the existing house, however, already occupies the top portion of the bluff face.

2. Limit the blufftop homes on the street to a single story above the street.

This alternative could be implemented with an amendment to the City's certified Local Coastal Program (LCP). A denial of the proposed project would leave the existing house at its current height.

**D. Public Access and Recreation**

The proposed project, which is located between the first public road and the sea, must also conform with the following public access and recreation policies of the Coastal Act.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Maximum public access is provided by the public accessway that abuts the northern side of the project site. The applicants propose to remove private development (i.e. fences, gas meter, etc.) and a ficus tree from this public access easement (Exhibit #6).

**Encroachments - Staging Plan**

Any private encroachment onto the public beach or into the public accessway would conflict with the requirement of Section 30211 of the Coastal Act, which states: "Development shall not interfere with the public's right of access to the sea..." Therefore, Special Condition Four prohibits any such encroachments. In addition, the applicants are required to provide a construction staging plan (Special Condition Five) that avoids encroachments onto the public beach or into the public accessway. Only as conditioned does the proposed development conform certified LCP and the public access and recreation policies of the Coastal Act.

**On site Parking**

The proposed project must provide adequate on-site parking in order to protect the public on-street parking that supports public access to the beach. Two existing on-site parking spaces in



the garage serve the single-family residence. The permit is conditioned to require the maintenance of the two on-site parking spaces. As conditioned, the Commission finds that the proposed development conforms certified LCP and the public access and recreation policies of the Coastal Act.

**E. Marine Resources**

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Furthermore, uncontrolled runoff from the project site and the percolation of water could also affect the structural stability of bluffs and hillsides. To address these concerns, the development, as proposed and as conditioned, incorporates design features to minimize the infiltration of water and the effect of construction and post-construction activities on the marine environment. These design features include, but are not limited to, the appropriate management of equipment and construction materials, and for the use of post-construction best management practices to minimize the project's adverse impact on coastal waters. Therefore, the Commission finds that the proposed development, as conditioned, conforms certified LCP and the marine resource policies of the Coastal Act.

**F. Future Improvements**

The development is located within an existing developed area and, as conditioned, would be compatible with the character and scale of the surrounding area. However, the proposed project raises concerns that future development of the project site potentially may result in a development which could adversely affect public views and public access and recreation. To assure that future development is consistent with the certified LCP and the policies of the Coastal Act, the Commission finds that a future improvements special condition must be imposed. As conditioned the development conforms with the certified LCP and the policies of the Coastal Act.

**G. Geologic Safety, Future Shoreline/Bluff Protection and Assumption of Risk**

Section 30253 of the Coastal Act states, in part:

New development shall: 1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard...

Policy 13 of the certified LUP also requires that new development minimize risks. The bluff on which the project site is located is an eroding landform and therefore hazardous by nature. Development adjacent to the ocean and the edges of coastal bluffs and hillsides is inherently hazardous. Therefore, the new development must minimize this risk. Special Condition Two requires that the applicants, prior to issuance of the coastal development permit, shall submit for the review and approval of the Executive Director, a geotechnical report for the approved development which addresses the construction on the bluff. The report shall be prepared and certified by an appropriate licensed professional (i.e., civil or other appropriate engineer or architect). All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the geotechnical report. Only as conditioned does the development conform with the provisions of the Section 30253 and the certified LCP.

As previously stated, development adjacent to the ocean and the edges of coastal bluffs and hillsides is inherently hazardous. Development which may require a bluff, hillside, or shoreline protective device in the future cannot be allowed due to the adverse impacts such devices have upon public access, visual resources, and shoreline processes (See LCP Section 10-5.1542). To minimize risks to life and property and to minimize the adverse effects of development on coastal bluffs, hillsides, and shoreline processes the development has been conditioned to require adherence to the geotechnical recommendations, to prohibit the construction of protective devices (such as a retaining wall or shoreline protective device) in the future, for a drainage and runoff plan to minimize the percolation of water into the hillside or bluff, and to require that the landowner or any successor-in-interest assume the risk of undertaking the development.

In order to ensure that any prospective future owners of the property are made aware of the applicability of the conditions of this permit, the Commission imposes one additional condition requiring that the property owners record a deed restriction against the property, referencing all of the special conditions of this permit and imposing them as covenants, conditions and restrictions on the use and enjoyment of the Property. Thus, as conditioned, this permit ensures that any prospective future owner will receive actual notice of the restrictions and/or obligations imposed on the use and enjoyment of the land in connection with the authorized development, including the risks of the development and/or hazards to which the site is subject, and the Commission's immunity from liability.

#### **H. California Environmental Quality Act**

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned, has been found consistent with the City of Redondo Beach certified LCP and the public access and recreation policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Attachments: Exhibit Nos.1-8

\_\_\_\_\_ Appendix A: Applicants' & Proponents' Correspondence

\_\_\_\_\_ Appendix B: Appellants' & Opponents' Correspondence